

ORDER NO. 3407

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Plus 1C (MC2012-6)
Negotiated Services Agreements

Docket No. CP2016-227

ORDER APPROVING ADDITIONAL GLOBAL PLUS 1D
NEGOTIATED SERVICE AGREEMENT

(Issued July 1, 2016)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Plus 1C agreement (Agreement) within the Global Plus 1C product.¹ For the reasons discussed below, the Commission approves the Postal Service's request, but includes the Agreement within the Global Plus 1D product.

¹ Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 22, 2016 (Notice).

II. BACKGROUND

On June 22, 2016, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreements for the Global Plus 1C product and requests that the Agreement be added to the existing Global Plus 1C product. Notice at 3. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the Global Plus 1C product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Postal Service intends to notify the mailer of the effective date of the Agreement within 30 days after receiving Commission approval. Notice, Attachment 1 at 4. If the effective date falls on the first of the month, the Agreement will expire one calendar year after the effective date. *Id.* If the effective date does not fall on the first of the month, then the Agreement shall expire one year after the effective date on the last calendar day of the month in which the effective date falls. *Id.*

On June 23, 2016, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.²

² Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 23, 2016.

III. COMMENTS

The Public Representative filed comments on June 30, 2016.³ No other comments were received. Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement is functionally equivalent to the Global Plus 1C baseline agreements. PR Comments at 2. He also states that the financial model indicates that the Agreement will cover its costs and that cost coverage is similar to other contracts deemed functionally equivalent by the Commission. *Id.*

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the Global Plus 1D product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 1151, the Commission added the Global Plus 1C product to the competitive product list and designated two agreements as baseline agreements for assessing the functional equivalence of agreements proposed for inclusion within the Global Plus 1C product.⁴

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreements, and requests that the Agreement be included within the Global Plus 1C product. Notice at 3. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the Global Plus 1C product. *Id.* The Postal Service also asserts that the Agreement and the baseline agreements possess similar cost and market characteristics and the same functional

³ Public Representative Comments on Request of the United States Postal Service to Add a Functionally Equivalent Global Plus 1C Negotiated Service Agreements, June 30, 2016 (PR Comments).

⁴ Docket Nos. MC2012-6, CP2012-12, and CP2012-13, Order Adding Global Plus 1C to the Competitive Product List and Approving Related Global Plus 1C Agreements, January 19, 2012, at 8 (Order No. 1151).

terms, but states that prices may differ. *Id.* at 4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement. *Id.* at 5-7.

In Order No. 3395, the Commission added the Global Plus 1D product to the competitive product list and designated a baseline agreement for assessing the functional equivalence of other agreements proposed for inclusion within the Global Plus 1D product.⁵ The Commission concluded that the removal of Global Bulk Economy, Global Direct, International Business Reply Service, and Global Express Guaranteed supported the conclusion that the agreement in that docket had cost and market characteristics distinct from those of the Global Plus 1C baseline agreements. Order No. 3395 at 5. Thus, the Commission found that the Agreement was not functionally equivalent to the Global Plus 1C baseline agreements. *Id.*

Because of the Commission's decision in Order No. 3395, in this docket, the Commission reviews whether the Agreement shares similar cost and market characteristics with the Global Plus 1D baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also considers the Public Representative's comments.

The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the Global Plus 1D product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's

⁵ Docket No. CP2016-193, Order Adding Global Plus 1D to the Competitive Product List and Approval of Designation as Baseline Agreement, June 29, 2016 (Order No. 3395).

institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. Consequently, the Commission finds that the addition of the Agreement to the Global Plus 1D product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the Global Plus 1D product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the Global Plus 1D product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the Global Plus 1D product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service intends to notify the mailer of the effective date of the Agreement within 30 days after receiving Commission approval. Notice, Attachment 1 at 4. The Postal Service shall promptly notify the Commission of the effective date of the Agreement by filing a notice in this docket.

If the effective date falls on the first of the month, the Agreement will expire one calendar year after the effective date. If the effective date does not fall on the first of the month, then the Agreement shall expire one year after the effective date, on the last calendar day of the month in which the effective date falls. *Id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2016-227 is included within the Global Plus 1D (CP2016-193) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement by filing a notice in this docket.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 1D
 Baseline Reference
 Docket Nos. CP2016-193
 PRC Order No. 3395, June 29, 2016
 Included Agreements

 CP2016-227, TBD
